

Jt. Huachuca

file

Fort Huachuca

August 28, 1947

Chief of Engineers
Corps of Engineers, U. S. Army
Washington, D. C.

Dear Sir:

Reference is made to the ownership status of the 44,760 acre public domain withdrawal portion of the lands comprising Ft. Huachuca in Cochise County, Arizona.

Our present information indicates that the total fort area consists of two parcels of land, acquired through different procedures as follows:

1. Subject area of 44,760 acres, withdrawn by executive order for military use.
2. An area of approximately 28,500 acres acquired by purchase and otherwise during the recent war and designated as the artillery range.

This office is intensely interested in acquiring the first mentioned area since it is no longer needed by the War Department and accurate knowledge concerning the disposal method applicable to it is vital to our efforts. Investigations to date indicate that subject area title is not vested in the War Department, and that it will probably revert to public domain status under the Department of the Interior upon its release.

This possibility is strongly supported by statements and opinions in the 1910 publication of the Government Printing Office entitled, "United States Military Reservations, National Cemeteries and Military Parks." This revised edition by Lewis W. Call, Chief Clerk and Solicitor in the office of the Judge-Advocate-General of the Army, on page 14, describes Ft. Huachuca as follows: "This reservation contains an area of 70 square miles and is situated in Townships 21, 22 and 23 South, Ranges 19 and 20 (extended), Cochise County. Title is as follows: Public lands of the United States reserved for military purposes by Executive Orders of October 29, 1831, and May 14, 1883."

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On page 459 of the same authority, the Federal Government's right of eminent domain is construed to continue on certain areas after Statehood is granted to a territory, a fact which might be pertinent in considering Ft. Huachuca.

Finally, on page 492, the publication states that the subsequent disposal of such withdrawals is prescribed by Acts of Congress, one of which is quoted as follows: "That whenever, in the opinion of the President of the United States, the lands, or any portion of them, included within the limits of any military reservation heretofore or hereafter declared, have become or shall become useless for military purposes, he shall cause the same or so much thereof as he may designate, to be placed under the control of the Secretary of the Interior for disposition as hereinafter provided, and shall cause to be filed with the Secretary of the Interior a notice thereof." (Act of July 5, 1884; 23 Stats., page 103.)"

If neither the original executive orders or the above authority have been superseded by subsequent legislation, it appears to us that the disposition of the subject 44,760 acre withdrawal is clearly prescribed.

It is requested that you advise us whether or not you concur in the belief that the lands in question will be returned to the Department of Interior. If not, kindly advise us of the authority which provides for its disposal.

Very truly yours,


H. L. REID
State Game & Fish Director

HLR:VA

cc: Governor Osborn
W. S. Connor
C. P. Beach
F. Faver
R. O. Kelly